

ELECTRONICALLY FILED
February 13, 2007

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10 UNITED STATES BANKRUPTCY COURT
 DISTRICT OF NEVADA

11 In re: USA COMMERCIAL MORTGAGE COMPANY, Debtor.) BK-S-06-10725-LBR Chapter 11
12 In re: USA CAPITAL REALTY ADVISORS, LLC, Debtor.) BK-S-06-10726-LBR Chapter 11
13 In re: USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC, Debtor.) BK-S-06-10727-LBR Chapter 11
14 In re: USA CAPITAL FIRST TRUST DEED FUND, LLC, Debtor.) BK-S-06-10728-LBR Chapter 11
15 In re: USA SECURITIES, LLC, Debtor.) BK-S-06-10729-LBR Chapter 11
16 Affects <input type="checkbox"/> All Debtors <input type="checkbox"/> USA Commercial Mortgage Co. <input type="checkbox"/> USA Securities, LLC <input type="checkbox"/> USA Capital Realty Advisors, LLC <input type="checkbox"/> USA Capital Diversified Trust Deed <input checked="" type="checkbox"/> USA First Trust Deed Fund, LLC) <u>Hearing</u> Date: March 15, 2007 Time: 9:30 a.m. Place: Courtroom #1

23 NOTICE OF FILING AND HEARING RE SIXTH OMNIBUS OBJECTION OF THE OFFICIAL
 24 COMMITTEE OF EQUITY SECURITY HOLDERS OF USA CAPITAL FIRST TRUST DEED
 25 FUND, LLC – CLAIMS BASED ON PREPETITION EQUITY SECURITY INTERESTS OF USA
 26 CAPITAL FIRST TRUST DEED FUND, LLC FILED BY SANCHEZ LIVING TRUST, RANDY
 27 AND SHARON SANCHEZ; DEBRA A GANT-HICKEL AND RUSSELL J. HICKEL; LEWIS
 28 KASKEL TRUST DTD 5/16/01; FIRST TRUST ONAGA CUSTODIAN FOR ROBERTA
 SCHWARTZ IRA; PHILLIP LACKMAN & TILLIE LACKMAN; FIRST SAVINGS BANK, C/F
 MARGARET ROCKWOOD IRA, HENRY ARTHUR PETERS AND DONNA MARIE PETERS
 JT WROS; FISERV COMPANY TTEE FBO THOMAS E. SMITH ACCT #949; AND FISERV
 TRUST COMPANY TEE FBO PATRICIA PASCHAL ACCT #938 (AFFECTS DEBTOR USA
CAPITAL FIRST TRUST DEED FUND, LLC)

1 **TO:** DEBRA A. GANT-HICKEL AND RUSSEL J. HICKEL
2 FIRST SAVINGS BANK (on account of the claim filed by FIRST SAVINGS BANK,
3 C/F MARGARET ROCKWOOD IRA, HENRY ARTHUR PETERS AND
4 DONNA MARIE PETERS JTWRROS)
5 FIRST TRUST CO. OF ONAGA (on account of the claim filed by FIRST TRUST CO
6 OF ONAGA CUSTODIAN FOR ROBERTA SCHWARTZ IRA)
7 FISERV TRUST COMPANY (on account of claims filed by FISERV TRUST
8 COMPANY TTEE FBO THOMAS E. SMITH ACCT #949 and FISERV
9 TRUST COMPANY TTEE FBO PATRICIA R. PASCHAL ACCT #938)
10 LEWIS KASKEL (on account of the claim filed by LEWIS KASKEL TRUST, DTD
11 5/16/01)
12 MARGARET ROCKWOOD (on account of the claim filed by FIRST SAVINGS
13 BANK, C/F MARGARET ROCKWOOD IRA, HENRY ARTHUR PETERS
14 AND DONNA MARIE PETERS JTWRROS)
15 PATRICIA R. PASCHAL (on account of the claim filed by FISERV TRUST
16 COMPANY TTEE FBO PATRICIA R. PASCHAL ACCT #938)
17 PHILLIP & TILLIE LACKMAN
18 RANDY SANCHEZ (on account of the claim filed by SANCHEZ LIVING TRUST
19 10/13/06 RANDY AND SHARON SANCHEZ)
20 ROBERTA SCHWARTZ (on account of the claim filed by FIRST TRUST CO OF
21 ONAGA CUSTODIAN FOR ROBERTA SCHWARTZ IRA)
22 THOMAS E. SMITH (on account of the claim filed by FISERV TRUST COMPANY
23 TTEE FBO THOMAS E. SMITH ACCT #949)
24 USA CAPITAL FIRST TRUST DEED FUND, LLC
25 U.S. TRUSTEE
26 ALL PARTIES IN INTEREST

17 **PLEASE TAKE NOTICE** that on February 13, 2007, the "Sixth Omnibus
18 **Objection of the Official Committee of Equity Security Holders of USA Capital First Trust**
19 **Deed Fund, LLC – Claims Based on Prepetition Equity Security Interests of USA Capital**
20 **First Trust Deed Fund, LLC"** (the "Objection") was filed by the Official Committee of Equity
21 Security Holders of USA Capital First Trust Deed Fund, LLC (the "FTDF Committee"). The
22 **Objection has been filed to reconcile various claims made against FTDF with the books and**
23 **records of the FTDF. You should read it. You filed a proof of claim that makes a claim**
24 **that is different than your interest shown in the books and records of FTDF.**

25 Pursuant to the Objection, the FTDF Committee objects to the proofs of claim
26 referenced therein (the "Claims on Equity Interests") on the grounds that they do not reflect
27 "claims" against USA Capital First Trust Deed Fund, LLC (the "FTDF") as that term is defined in
28 Bankruptcy Code section 101(5). Rather, the Claims on Equity Interests reflect "equity security"
interests based on the membership interests in the FTDF. Accordingly, the FTDF Committee's

1 position is that the Claims on Equity Interests should be reclassified as proofs of interest in the
 2 amounts set forth on Exhibit "1" to the Objection. Furthermore, the Claims on Equity Interests
 3 should be disallowed to the extent they assert amounts in excess or other than those reflected in the
 4 Debtors' books and records as the amount of a particular member of the FTDF's ("FTDF Member")
 5 interest in the FTDF as of the Petition Date, which amounts are set forth on Exhibit "1" to the
 6 Objection. By the Objection, the FTDF Committee does not seek to prejudice the rights of any
 7 FTDF Member who filed a Claim on Equity Interest (the "Claimants") to recover from the FTDF
 8 estate on account of his or her membership interest in the FTDF but simply seeks the entry of a
 9 Court order that would (a) properly classify the Claims on Equity Interests that have been filed by
 10 the Claimants as proofs of interest in the amount of each Claimant's respective equity interest in
 11 the FTDF and (b) disallow the Claims on Equity Interests to the extent that they assert amounts in
 12 addition to or other than each Claimant's equity interest in the FTDF as of the Petition Date or are
 13 duplicative of other Claims on Equity Interests. This will effectuate a pro rata distribution to all
 14 similarly situated equity holders. The Claims on Equity Interests to which this notice relates and
 15 the requested treatment of such claims by the FTDF Committee are as follows:

Claim No.	Claimant	Account ID #	Date of Claim	Claim Amount	Amount of Equity Interest Per Debtors' Records	Proposed Disposition
40	Sanchez Living Trust 10/13/06 Randy and Sharon Sanchez	6490	August 10, 2006	\$20,000.00	\$20,000.00	Reclassify as proof of interest in the amount of \$20,000.00.

Claim No.	Claimant	Account ID #	Date of Claim	Claim Amount	Amount of Equity Interest Per Debtors' Records	Proposed Disposition
41	Debra A. Gant-Hickel and Russell J. Hickel	8449	August 10, 2006	\$33,245.88	\$31,967.00	Reclassify as proof of interest in the amount of \$31,976.00. Disallow claim to the extent it exceeds \$31,976.00 because amount claimed in excess of \$31,976.00 reflects book value as opposed to the amount of the Claimant's equity interest in the FTDF as of the Petition Date.
42	Lewis Kaskel Trust, Dtd 5/16/01	1816	August 18, 2006	\$61,521.05	\$59,154.50	Reclassify as proof of interest in the amount of \$59,154.50. Disallow claim to the extent it exceeds \$59,154.50 because amount claimed in excess of \$59,154.50 reflects book value as opposed to the amount of the Claimant's equity interest in the FTDF as of the Petition Date.
47	First Trust Co of Onaga Custodian for Roberta Schwartz IRA	9938	September 21, 2006	\$50,000.00	\$50,000.00	Reclassify as proof of interest in the amount of \$50,000.00.

Claim No.	Claimant	Account ID #	Date of Claim	Claim Amount	Amount of Equity Interest Per Debtors' Records	Proposed Disposition
53	Philip Lackman & Tillie Lackman	3590	September 29, 2006	\$30,000.00	\$30,000.00	Reclassify as proof of interest in the amount of \$30,000.00.
55	First Savings Bank, C/F Margaret Rockwood IRA, Henry Arthur Peters and Donna Marie Peters JTWRROS	5538	September 28, 2006	\$30,000.00	\$30,000.00	Reclassify as proof of interest in the amount of \$30,000.00.
68	Fiserv Trust Company Ttee FBO Thomas E. Smith Acct #949	949	October 9, 2006	\$83,627.50	\$83,627.50	Reclassify as proof of interest in the amount of \$83,627.50.
69	Fiserv Trust Company Ttee FBO Patricia R. Paschal Acct #938	938	October 9, 2006	\$200,000.00	\$200,000.00	Reclassify as proof of interest in the amount of \$200,000.00.

PLEASE TAKE FURTHER NOTICE that the hearing on the Objection will be held before the Honorable Linda B. Riegle, United States Bankruptcy Judge, in the Foley Federal Building, 300 Las Vegas Boulevard South, Courtroom 1, Las Vegas, Nevada, on **March 15, 2007, at the hour of 9:30 a.m.**

PLEASE TAKE FURTHER NOTICE that this hearing may be continued from time to time without further notice except for the announcement of any adjourned dates and time at the above noticed hearing or any adjournment thereof.

1 **PLEASE TAKE FURTHER NOTICE** that any response to the Objection must
2 be filed by **March 8, 2007** pursuant to Local Rule 3007(b), which states:

3 If an objection to a claim is opposed, a written response must be
4 filed and served on the objecting party at least 5 business days
5 before the scheduled hearing. A response is deemed sufficient if it
6 states that written documentation in support of the proof of claim
7 has already been provided to the objecting party and that the
documentation will be provided at any evidentiary hearing or trial
on the matter.

8 If you object to the relief requested, you *must* file a **WRITTEN** response to this
9 pleading with the court. You *must* also serve your written response on the person who sent you
10 this notice.

11 If you do not file a written response with the court, or if you do not serve your
12 written response on the person who sent you this notice, then:

- 13 ! The court may *refuse to allow you to speak* at the scheduled hearing; and
14 ! The court may *rule against you* without formally calling the matter at the
15 hearing.

16
17 DATED: February 13, 2007

/s/ Andrew M. Parlen

Andrew M. Parlen, Esq.
Stutman, Treister & Glatt
Professional Corporation
Counsel to the Official Committee of Equity
Security Holders of USA Capital First Trust
Deed Fund, LLC